

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REYNALDO PEREZ,

Plaintiff,

-against-

LYNN J. LILLEY, Superintendent, et al.,

Defendant.

19-CV-5378 (CM)

ORDER

COLLEEN MCMAHON, Chief United States District Judge:

In this action, which is closed, Plaintiff challenged his treatment at Woodbourne Correctional Facility as a hearing-impaired prisoner. By order dated July 8, 2019, the Court directed the Clerk of Court to refile the complaint from this civil action as a motion for an order of contempt in *Clarkson*, No. 91-CV-1792 (CM), and to administratively close this action. Plaintiff's motion in *Clarkson*, No. 91-CV-1792 (CM) remains pending.¹

Months after this case was administratively closed, Plaintiff submitted a letter stating that as a "sanction," he was transferred to Fishkill Correctional Facility (Fishkill), which "is not approved to accommodate any inmate with [his] disability." (ECF No. 3, at 1.) It is unclear if Plaintiff contends that he was transferred in retaliation for having filed this action complaining of discrimination, or if he wishes to assert a claim about the failure at Fishkill to accommodate his disability. Because this action is closed, the Court cannot address any claims in the action under this docket number.

If Plaintiff is claiming retaliation, he shall file a new lawsuit. If he is complaining about the failure at Fishkill to accommodate his disability, he may amend his complaint in *Clarkson*. Any

¹ By memo-endorsed order dated October 8, 2019, in *Clarkson*, No. 91-CV-1792 (CM), the Court extended the time until November 22, 2019, for Plaintiff to respond to Defendants' motion in opposition to Plaintiff's motion for an order of contempt of the *Clarkson* consent decree.

claims that Plaintiff wishes to assert cannot be brought in this closed action and must be raised either in his pending matter in *Clarkson*, No. 91-CV-1792 (CM), if appropriate, or in a new action.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, noting service on the docket. This action is closed and the Court cannot consider any claims raised in Plaintiff's letter in the action under this docket number.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: January 17, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'Colleen McMahon', is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge